

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

ALLEN D. DANIEL,

Plaintiff,

v.

Case Number 06-14387-BC
Honorable Thomas L. Ludington

JENNIFER GRANHOLM, *et al.*,

Defendants.

_____ /

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION AND DISMISSING CASE WITHOUT PREJUDICE**

This matter is before the Court on a report issued by Magistrate Judge Charles E. Binder on December 1, 2006. The magistrate judge recommended that the Court dismiss the plaintiff's case against 83 defendants without prejudice for failure to prosecute or to comply with court rules under Federal Rule of Civil Procedure 41(b) and E.D. LR 41.2. The plaintiff did not pay the Court's filing fee, nor did he apply to proceed *in forma pauperis*.

The plaintiff filed no objections within ten days of service of the report. On December 15, 2006, additional papers arrived from the plaintiff, which the Court construes as pleadings and which the Court now directs the Clerk to file. Even accepting these filings as pleadings, Plaintiff has not presented to the Court a particularized objection to the magistrate judge's report and recommendation, even accounting for the liberality accorded to pro se litigants. *See Brooks v. Seiter*, 779 F.2d 1177, 1179-1180 (6th Cir. 1985). In addition, the plaintiff's documentation still does not include an application to proceed *in forma pauperis*. He provided no original signed application, and he included no authorization to withdraw funds from his prisoner account.

The plaintiff's failure to file objections to the report and recommendation waives any further

right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the record. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the Clerk is **DIRECTED** to file Plaintiff's submissions as pleadings.

It is further **ORDERED** that the magistrate judge's report and recommendation [dkt #5] is **ADOPTED** and the case is **DISMISSED WITHOUT PREJUDICE**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: December 22, 2006

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on December 22, 2006.

s/Tracy A. Jacobs
TRACY A. JACOBS